

**RAIL SERVICE COMPETITION COUNCIL  
COUNCIL MEETING  
AGENDA**

**Wednesday  
December 6, 2006  
9:00am – 4:00pm**

**Great Falls International Airport  
2800 Terminal Drive, Prairie Room  
Great Falls, Montana**

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**COUNCIL MEMBERS PRESENT:** Mike O'Hara, Jim Lynch, Russ Hobbs, Doug Miller, Bill Fogarty, Evan Barrett and Larry Bonderud.

**COUNCIL MEMBERS ABSENT:** Dan Bucks, Carla Allen, Nancy K. Peterson, Sen. Hansen, Rep. McGillvray,

**REPRESENTING COUNCIL MEMBERS:** Larry Finch for MT. Dept. of Revenue and Chris Ageson for Montana Department of Agriculture.

**GUESTS:** Dick Turner, Barbara Ranf, Mark Cole, George Paul, Lola Raska, Ray Young, Doug Monger and Paul McCarthy.

**RSCC Staff:** Terry Whiteside, Gloria O'Rourke

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**1.0 Call Meeting to Order**

RSCC Chairman Mike O'Hara called the meeting to order. Roll call was taken and guests were introduced.

**2.0 Approval of Minutes**

- Evan Barrett moved to approve the Transportation Subcommittee Minutes from September 27<sup>th</sup>, 2006. Russ Hobbs moved to second the motion. All voted in favor of approval.
- Bill Fogarty moved to approve the Taxation Subcommittee Minutes from September 27<sup>th</sup>, 2006. Evan Barrett provided the second to the motion. All voted in favor of approval.
- Evan Barrett moved to approve the RSCC Minutes of September 27<sup>th</sup>, 2006. Doug Miller moved to second the motion. All voted in favor of approval.

**3.0 Budget Subcommittee Update (Mike O'Hara, Chair)**

A conference call was held on November 8<sup>th</sup> with Chairman Mike O'Hara, Evan Barrett, Jim Lynch and Dick Turner to discuss the transfer of the RSCC from the Governor's Office to Montana Department of Transportation and the budget for the RSCC. HB26 is the bill in place to provide for the transfer of the RSCC. Rep. McGillvray will carry it in the house; Sen. Hansen in the Senate. (See additional comments on HB26 below.)

Regarding the budget, the RSCC had previously recommended \$250,000 as a starting point. Jim Lynch and Dick Turner feel that based on the workload described for the RSCC, a full time position is required. This position would need to be filled by someone with knowledge and expertise in rail, freight and transportation issues and would also serve as a liaison between Montana Department of Agriculture, Montana Department of Commerce and Montana Department of Revenue. Additional funding would be needed for travel, meeting costs, etc., and perhaps for technical assistance such as Terry Whiteside currently provides.

Based on these qualifications and expenses, it was suggested the RSCC request \$360,000 for the biennium. When including the cost of the pending core line analysis, more funding may be needed.

Russ Hobbs moved to submit \$400,000 for the RSCC budget for the next biennium. Doug Miller seconded the motion. All voted to approve the budget amount. Evan Barrett said he would submit the numbers today but noted as the funding will come from HB2, the budget will not be finally determined until the last day of the session.

Montana Department of Transportation will compile a justification for the position, write a Job Description and bring it back to the council for input and suggestions.

#### **4.0 HB26 Discussion**

The following changes were requested after reviewing the language of HB26, "An Act transferring the Rail Service Competition Council from the Office of the Governor to the Department of Transportation for administrative purposes; increasing the membership of the council; expanding the duties of the council to include promoting the expansion of existing rail lines and the construction of new rail lines in Montana; and amending Section 2-15-246, MCA."

- Change Section 1. 2-15-246 (e) to read seven people and delete (iii) which would add a railroad employee of a railroad engaged in interstate commerce to the RSCC.
- Add staggered term language to Section 1. 2-15-246 (e)

Larry Bonderud moved to modify HB26 to reflect a seven member board, include staggered term language and eliminate the reference of a railroad employee. Evan Barrett seconded the motion. All voted in favor of requesting these changes to HB26.

#### **5.0 Taxation Subcommittee Update (Rep. Tom McGillvray, Chair)**

As Rep. Tom McGillvray was out-of-state for legislative training, a Taxation Subcommittee Update was not available.

#### **6.0 Transportation Subcommittee Update (Mike O'Hara, Chair)**

Chairman Mike O'Hara reported good progress with the Farm Producer's Survey; it should be completed by the end of December. In addition, letters have been sent to each rail carrier in the state requesting information about their plans for expansion, investment, etc. Each carrier was also asked if, should tax credits for rail infrastructure improvement be passed by Congress, they would plan for infrastructure improvement in Montana. All carriers have responded with the exception of WATCo. Russ Hobbs offered to contact WATCo.

#### **7.0 Technical Assistance Update from Terry Whiteside**

Terry Whiteside provided an update on several issues including:

1. Sponsorship of federal Captive Rail Customer legislation reaches record levels
2. STB holds a hearing on Grain Transportation and the recent GAO report
3. STB is conducting a proceeding designed to develop small rate case standards
4. Railroads are pushing a tax infrastructure bill in the new Congress

5. RE: Dr. Fiehrer's application for 'Forced' sale of Helena-GF line – analysis of legal procedure for forced sale
6. Review of Farm Producer Survey progress

To review the details of this presentation, visit

[http://rsccl.mt.gov/docs/Report\\_to\\_RSCC\\_December\\_2006.pdf](http://rsccl.mt.gov/docs/Report_to_RSCC_December_2006.pdf)

Discussion:

The RSCC will invite Dr. Fiehrer to attend the next meeting to learn more about his plans for the Great Falls to Helena line. The RSCC needs more information before it can make an educated decision or take action on the line.

## **8.0 Background Information on Great Falls to Helena Line**

Dick Turner of Montana Department of Transportation provided a report on the history of the Great Falls to Helena line. In addition to its history, Dick included statistics of the track and the amount of traffic it has sustained. Dick provided several photos of the washout near Ulm as well as photos of a slide area near Cascade. View Dick's report in its entirety at

[http://rsccl.mt.gov/docs/Helena\\_GreatFalls\\_Line\\_2006.pdf](http://rsccl.mt.gov/docs/Helena_GreatFalls_Line_2006.pdf)

## **9.0 Rarus Rail Issue**

President of RARUS Railroad, Paul McCarthy, gave a presentation to the RSCC regarding the Copper King Express Excursion Train and access to 2,500 feet of BNSF yard track. The excursion train is extremely popular with over 10,000 riders to date and incorporates the area's history into a scenic train ride between Butte and Anaconda. View portions of the presentation at the Copper King Express website at <http://www.copperkingexpress.com>.

The track under discussion has a wye for turning around locomotives which RARUS has been using with its freight operation as part of a "hand shake deal" for years. This track is located at the Berkely Pit and is a practical place to terminate the excursion train and include the Berkely Pit as part of the train tour. BNSF is preventing access to the track due to concerns of liability for the excursion train passengers. Insurance companies, however, will not provide liability for a limited amount of track, only for the entire rail line. RARUS has offered the following solutions:

- Deed the track to the Butte Chamber of Commerce
- BNSF continues its use of track, but incurs no maintenance costs
- Release BNSF from all liability

Discussion:

As one role of the RSCC is to facilitate communication between rail lines, the RSCC is interested in assisting with this issue. Letters of support for the Copper King Express Excursion Train are to be obtained from Montana Department of Transportation, Montana Tourism office, Montana Department of Commerce and the Governor's Office of Economic Development. Evan Barrett requested copies of letters of support already in circulation from the Butte Chamber of Commerce as well as any other letters. The Governor will most likely assist with this effort.

## **10.0 RSCC Serving as Facilitator to Foster Cooperative Relationships between Railroads**

It was noted in the STB report regarding the sale of the Great Falls to Helena line that one reason to open the line would be to improve transportation for shippers by attracting overhead shipments

moving between Canada, the southern United States and Mexico by providing a more direct route than is currently used.

Larry Bonderud suggested the RSCC open a discussion between the three railroads to improve access in the north south corridor. It was noted that the Great Falls to Helena line has not been designated an abandoned line so a forum with the three railroads may be premature at this time.

The RSCC members present discussed the need for the RSCC to be prepared to engage in this and similar issues as they arise in the future. Terry Whiteside and Dick Turner will develop guidelines for a plan of action and how the RSCC could proceed when track is designated as abandoned or potential for a merger exists. In this way, the RSCC will have tools in hand to make recommendations to the executive branch regarding the situation.

The question was raised as to whether or not the state has ever developed a policy for buying rail lines. This issue has come up in the past, but the problem has been funding. Evan Barrett said that the council has a charter to build a plan, and the plan could include this issue.

## **11.0 Rail Updates**

### **11.1 Union Pacific**

Evan Barrett reported Rep. Art Noonan of Butte may submit a bill to deal with venue issues regarding Union Pacific. The bill would address residency and benefits issues of railroad employees.

### **11.2 Canadian Pacific**

Larry Bonderud said the Canadian Pacific is alive and well with income the first nine months of the year an improvement of 60% over 2005. Canadian Pacific expects to invest \$895 million back into the system in 2007. Mr. Bonderud said Alberta and Edmonton are booming and experiencing work shortages.

### **11.3 Montana Rail Link**

Evan Barrett said efforts are ongoing to resolve issues for a coal rail line from the Bull Mountain Mine to market.

### **11.4 BNSF Railway**

Barbara Ranf provided an update on BNSF activities:

- BNSF requested the STB to move the Glendive to Circle line out of abandonment status to discontinuance. BNSF wants to use the track for car storage. There has not been action from the STB to date.
- BNSF and Columbia Grain are upgrading the 110 grain facility at Carter to prepare for next harvest season.
- BNSF does not oppose the Copper King Express excursion train but feels the issue of passenger liability must be addressed.
- Offered copies of the filing with the STB to reject Dr. Fiehrer's application regarding the Helena to Great Falls line.

### **11.5 Watco, Yellowstone, Mission Valley, et al**

Jim Lynch met with Watco officials yesterday to discuss the line between Bainville and Plentywood and providing service to Scobey. Watco is working with Columbia Grain for a 110 car shuttle facility in Plentywood. Watco representatives said the line would need to maintain a load of 1800 cars to be profitable which may prove difficult.

As the lessee to BNSF, Watco will need to utilize the line or abandon it according to its agreement with BNSF.

Given the charter of the RSCC, Evan Barrett moved for Terry Whiteside to contact Watco for statistics on this matter and determine if Watco's data validates their assertions. Russ Hobbs seconded the motion with all members voting in favor of the motion.

It was noted the Department of Transportation and Department of Agriculture conducted a study of the Glendive to Circle line when BNSF announced plans to abandon that line. Although the information is dated, it may be a starting point for Terry.

## **12.0 Next Council Meeting**

### **12.1 Meeting Date and Location**

The next RSCC meeting will be held in Helena so that legislative members may attend. Jim Lynch offered the Montana Department of Transportation Commission Room and will check for availability in late February. Mr. Lynch noted the room is wired for videoconferencing so producers around the state could join the meeting.

### **12.2 Agenda for Next Meeting**

Farm Producer Survey Results  
Budget and FTE Update  
Dr. Fiehrer Presentation  
Taxation Subcommittee Update  
Transportation Subcommittee Update  
Rarus Railroad Issue Update  
RFP for the RSCC Plan  
Watco Data Review

## **13.0 Comments or Issues from Council Members**

- RSCC member's packets contain a copy of a BNSF letter to the STB to request an exemption of the Glendive to Circle line for car storage purposes.  
Note: a brief discussion was held regarding the apparently high number of rail cars in storage. Russ Hobbs said that cars were over purchased for lumber and now the lumber supply is down. Others reasons for car storage may involve the age of the cars, tax issues on in-use vs. off-line cars, and supply vs. demand.
- The RSCC may want to support a one-time-only \$3 million item in the Montana Department of Transportation budget to pay for STB litigation. It would be important to have the capacity to be able to act if and when a law suit would be worth pursuing.
- Gloria was asked to share the minutes of the RSCC meetings with Matt Jones of Senator Baucus's office.
- RSCC members requested a letter to present when checking in to hotels for lodging so they may obtain the state rate.

**14.0 Formal Public Comment Period**

No comments.

**15.0 Adjournment**

**\*\* Tour of Great Falls Airport Authority – Cynthia Schultz, Airport Director**